

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**DONALD LEE, *et al.*,**

**Plaintiffs,**

**v.**

**TOMAS PADILLA, *et al.*,**

**Defendants.**

**Civil Action Number: 2:11-1463**

**OPINION**

**HON. WILLIAM J. MARTINI**

**ORDER**

For the reasons elaborated in the memorandum opinion filed contemporaneously with this Order,

IT IS on this 9th day of August, 2011;

**ORDERED** that Defendant Zisa's motion to dismiss is **GRANTED** in part, and **DENIED** in part;

Specifically:

Count I: Lee's First Amendment claim against Zisa is **DISMISSED**.

Count II: Lee's CEPA claim is dismissed against Defendants Zisa, Padilla, and the City of Hackensack. *I.e.*, Count II is **DISMISSED**.

Count IV: O'Connor's First Amendment claim against Zisa is **DISMISSED**.

Count VI: Riotto's Due Process claim against Zisa is **DISMISSED**.

Count VII: Riotto's federal conspiracy claim is **DISMISSED**.

Count VIII: Riotto's civil conspiracy claim against Zisa is **DISMISSED**.

Count IX: Lee's Free Speech/Freedom of Association-related claim against Zisa is

**DISMISSED.** O'Connor's Free Speech/Freedom of Association-related claim against Zisa is **DISMISSED.** Riotto's Due Process-related claim against Zisa is **DISMISSED.**

The following counts will go forward:

Count I: Lee's First Amendment claim against Padilla will proceed.<sup>1</sup>

Count III: O'Connor's CEPA claim will proceed.

Count IV: O'Connor's First Amendment claim will proceed against Defendants Padilla, Molinelli, Bergen County Prosecutor's Office, County of Bergen, and the City of Hackensack, but not against Zisa.

Count V: DeLeone's First Amendment claim will proceed against Zisa and Padilla.

Count VI: Riotto's Due Process claim will proceed against all Defendants except Zisa.

Count VIII: Riotto's civil conspiracy claim will proceed against all Defendants except Zisa.

Count IX: Plaintiffs' claim under NJCRA will go forward except in relation to Lee's Free Speech/Freedom of Association-related claim against Zisa; except in relation to O'Connor's Free Speech/Freedom of Association-related claim against Zisa; and except in relation to Riotto's Due Process-related claim against Zisa.

Count X: Plaintiffs' claim against the City of Hackensack will go forward.

Finally, all conduct by Chief Zisa pre-dating March 15, 2009 or post-dating April 30, 2010 under any remaining count is barred for the purpose of establishing liability against Zisa.

s/William J. Martini

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**William J. Martini, U.S.D.J.**

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<sup>1</sup> With regard to each count that goes forward, the Court's conclusion is subject to any motion to dismiss brought by other Defendants which have yet to be adjudicated.